

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
San Jose Venue**

**Request for Modifying the Conditions or Term of Supervision
for the Person Under Supervision**

Person Under Supervision

Daniel Ortega

Docket Number

0971 5:06CR00589-001 BLF

Name of Sentencing Judge: The Honorable James Lawrence King

United States District Judge, Southern District of Florida

Date of Original Sentence: July 3, 2001

Original Offense: 21 U.S.C. § 952(a), a Class B Felony – Importation of Heroin

Original Sentence: 87 months custody, 4 years supervised release.

Special Conditions: Substance abuse treatment and testing; comply and cooperate with ICE.

Prior Form(s) 12: On August 28, 2006, jurisdiction was transferred to the Northern District of California from the Southern District of Florida.

On January 9, 2007, a Petition for Summons for Offender Under Supervision was filed due to Mr. Ortega violating the mandatory condition which states Mr. Ortega shall not commit another federal, state or local crime (Charge One); standard condition number one which states Mr. Ortega shall participate in drug/alcohol aftercare program, which may include testing as directed by the probation officer (Charge Two); and standard condition number eight which states Mr. Ortega shall not purchase, possess, use, distribute or administer any controlled substances (Charge Three). On January 11, 2007, the Honorable Judge Fogel ordered the issuance of a summons for Mr. Ortega to appear before the duty Magistrate Judge on February 8, 2007 at 9:30 a.m. (ECF Document Number Three). Mr. Ortega's summons appearance date was continued to February 20, 2007. Mr. Ortega failed to appear on his scheduled summons date before the Honorable Judge Howard R. Lloyd. Due to Mr. Ortega's failure to appear, a no bail bench warrant was issued on February 20, 2007 (ECF Document Number Six).

On May 22, 2021, Mr. Ortega was arrested on his no bail bench warrant at the San Ysidro United States Port of Entry. On May 24, 2021, Mr. Ortega had an initial appearance hearing before the Honorable William V. Gallo, United States Magistrate Judge, on his no bail bench warrant in the Southern District of California. Mr. Ortega was remanded on the above-mentioned date and was scheduled to appear on June 3, 2021 for a Removal/ID Hearing.

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On June 3, 2021, Mr. Ortega appeared before the Honorable Jill L. Burkhardt, United States Magistrate Judge, in the Southern District of California. On the aforementioned date, the U.S. Court issued a Warrant of Removal to the Northern District of California following Mr. Ortega's waiver of right to a Rule Five (5) Hearing.

On August 24, 2021, Mr. Ortega made an initial appearance, via Zoom, regarding revocation of supervised release before the Honorable Virginia K. DeMarchi, United States Magistrate Judge, in the Northern District of California, San Jose Venue. Mr. Ortega was arraigned on the charges, appointed counsel, and the Court continued the matter to August 31, 2021, for a Detention/Status Hearing before the Honorable Judge DeMarchi.

On August 31, 2021, the U.S. Court granted a continuance regarding the Detention/Status Hearing to September 13, 2021, before the Honorable Nathanael M. Cousins, United States Magistrate Judge. On September 13, 2021, Judge Cousins granted a continuance regarding Mr. Ortega's Detention/Status Hearing to September 16, 2021. On September 16, 2021, Mr. Ortega appeared before Judge Cousins, via Zoom, regarding the Detention/Status Hearing. Mr. Ortega was ordered to remain detained pending revocation proceedings. Furthermore, Judge Cousins set Mr. Ortega's Supervised Release Violation Hearing for November 11, 2021, before the Honorable Beth Labson Freeman, United States District Judge. On October 7, 2021, via Clerk's Notice, Mr. Ortega's Supervised Release Violation Hearing was rescheduled October 26, 2021.

On October 26, 2021, Mr. Ortega appeared before Your Honor for revocation and sentencing proceedings for the above-mentioned violations of supervised release. Mr. Ortega admitted to the three violation charges. The Court revoked Mr. Ortega's supervised release and reinstated his supervised release to complete his remaining term, 41 months, along with reimposing his prior conditions. The Court added two special conditions which included a 90-day term at a Residential Re-Entry Center and a general search condition.

Type of Supervision	Date Supervision Commenced
Supervised Release	November 22, 2021
Assistant U.S. Attorney	Defense Counsel
Dan Kassabian	Severa Keith (AFPD)

Petitioning the Court

For approval to release Mr. Ortega from the Residential Re-Entry Center (RRC) early, and to have the following condition of Supervised Release be deemed satisfied by Your Honor:

It is recommended special condition number one, added on October 26, 2021, be deemed satisfied by Your Honor. The special condition stated Mr. Ortega must reside for a period of 90 days, to commence as soon as accepted into a facility, in a Residential Reentry Center and shall observe the rules of that facility. It is further recommended Mr. Ortega be released from the RRC early as a result of successful compliance and concern the RRC's COVID-19 protocols/restrictions are suppressing him from completing his goals and conditions while on supervised release.

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Cause

Mr. Ortega began his 90-day term at the RRC located in Oakland, California on November 29, 2021. Since his placement, Mr. Ortega has complied with the rules and regulations of the facility. Additionally, he has demonstrated the capability to maintain his sobriety as he has provided all negative drug tests since being placed at the facility. The U.S. Probation Officer received notice Mr. Ortega has missed employment opportunities in addition to scheduled appointments for a vaccine, with the Social Security Office, and with the Department of Motor Vehicles to obtain his driver's license as a result of the RRC's COVID-19 lockdown protocols. The U.S. Probation Officer is concerned Mr. Ortega is inadvertently affected by the RRC's COVID-19 protocols and procedures as it appears he is being suppressed from completing personal goals and satisfying his conditions of supervised release.

At the time of this writing, Mr. Ortega has approximately completed 60 out of the 90 days ordered by Your Honor. The U.S. Probation Officer conferred with the Assistant United States Attorney, Dan Kassabian, and Assistant Federal Public Defender, Severa Keith, regarding Mr. Ortega's matter. All parties agreed early release from the RRC is appropriate. On January 21, 2022, the U.S. Probation Officer investigated a proposed residence, 130 Roundtable Drive, Apartment M4, San Jose, California, 95111, which was deemed an appropriate residence for Mr. Ortega. The proposed residence would provide familial support and would grant Mr. Ortega the opportunity to actively satisfy his goals and conditions of supervised release. If approved for early release, the U.S. Probation Officer would continue to monitor Mr. Ortega within the community to ensure he maintains his sobriety and obtains lawful employment. Furthermore, utilizing the Post-Conviction Risk Assessment, Mr. Ortega scored as a low-moderate, category one risk level. The aforementioned risk level signifies individuals in this category have a nine percent arrest rate and a two percent revocation rate within the next six months. As such, the U.S. Probation Officer respectfully requests Mr. Ortega be released from the RRC and the special condition be deemed satisfied.

Respectfully submitted,



Anthony Cardenas
U.S. Probation Officer Specialist
Date Signed: January 27, 2022

Reviewed by:



Jennifer J. James
Supervisory U.S. Probation Officer

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THE COURT ORDERS:

- Mr. Ortega be released from the Residential Re-Entry Center (RRC) and the special condition to reside at an RRC for a 90-day period be deemed satisfied.
- Submit a request for a warrant
- Submit a request for summons
- Other:

January 28, 2022
Date



Beth Labson Freeman
United States District Judge